IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3643 OF 1994.

Manik S/o Daulatrao Timpe
Age : 51 Yrs., Occ. Service
as Senior Clerk in
Civil Court, Jr. Division,
Nilanga, R/o : Nilanga,
Dist. Latur. .... PETITIONER

VERSUS

1. The State of Maharashtra
   Through the Principal Secretary
   Law & Judiciary Department
   Mantralaya, Bombay.
2. The Registrar
   High Court, Appellate Side,
   Bombay.
3. The District & Sessions Judge
   Latur, Dist. Latur. .... RESPONDENTS

Mr. P.V. Barde, Advocate for petitioner.
Mr. V.D.Rakh, Assistant Govt. Pleader for State.

WITH
WRIT PETITION NO. 1453 OF 1994.

Sudhakar Ganpat Patil
Age : 30 Yrs., Occ. Nil,
R/o : Yawal, Tq. Yawal,
Dist. : Jalgaon. .... PETITIONER

VERSUS

1. The State of Maharashtra
   Through the Govt. Pleader
   High Court Bombay,
   Bench at Aurangabad.
2. The Disciplinary Authority
   and the District & Sessions Judge,
   Jalgaon.
3. The Registrar
   High Court, Bombay. .... RESPONDENTS

Mr. V. T. Choudhary , Advocate for petitioner.
Mr. K.G.Patil, Assistant Govt. Pleader for State.

CORAM : B.R.GAVAI AND S.V.GANGAPURWALA, JJ.

DATE : 15/06/2010

ORAL JUDGMENT : [PER - S.V. GANGAPURWALA, J.]

1. Both the petitions involve common question of law and fact, as such are decided together.

2. It is the case of the petitioners that disciplinary proceedings were initiated against them. They were adjudged guilty and punishment was imposed upon them. The petitioners challenged the said order of the disciplinary authority before the appellate authority under the provisions of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (For short, ' said Rules '). The appellate authority dismissed their appeal. Being aggrieved by the same, the petitioners have approached this Court.

3. The learned counsel for the petitioners have contended that the appellate authority has not afforded the petitioner opportunity of hearing and has decided the appeal. Even while dismissing the appeal, no reasons have been assigned by the appellate authority. The petitioners rely on the dictum of the Full Bench of this Court in case of ***Anil Amrut Atre V/s District & Sessions Judge and another reported in 2003 (2) Bombay Cases Reporter - 246***.

4. The learned Assistant Govt. Pleader appearing for the respondents contended that the said rules do not provide for any opportunity of hearing to be given to the appellants therein and when the appellate authority is concurring with the finding of the disciplinary authority, no reasons are required to be given.

5. We have gone through the Judgment of the Full Bench of this Court referred supra. The Full Bench was concerned with the interpretation of Rule 23 of the said Rules. The Full Bench succinctly held that the mandate of law requires that an opportunity of hearing ought to be given to the appellants.

6. In light of the Judgment of the Full Bench of this Court, the impugned orders passed by the appellate authority will have to be quashed and set aside. We relegate the petitioners to the appellate authority and remit the matter to the appellate authority for hearing the appeal afresh. The appellate authority shall give personal hearing to the appellants. Needless to state that the appellate authority while deciding the Appeal shall give

reasons .

7. The Appellate authority shall decide the appeals within the period of three months from today.

8. Rule is made absolute on above terms with no order as to costs.

[S.V.GANGAPURWALA] **[B.R.GAVAI]**

JUDGE **JUDGE**

knp/WP 3643,1453.94